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Mattel, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MATTEL, INC.,

Plaintiff

v.

WWW.FISHER-PRICE.ONLINE,

Defendant

CIVIL ACTION NO. ____

COMPLAINT

Jury Trial Requested

FILED UNDER SEAL

GLOSSARY

Term	Definition
Plaintiff or Mattel	Mattel, Inc.
Defendant	www.fisher-price.online
Mattel	A leading designer, developer, marketer, manufacturer and distributor of its well-known Mattel Products (defined <i>infra</i>), including children's toys and games offered under some of America's most iconic and influential sub-brands, such as Fisher Price, Barbie, UNO, Thomas & Friends, Hot Wheels and American Girl
Fisher-Price	Plaintiff's wholly owned subsidiary that produces educational toys for infants, toddlers and preschoolers, along with developing character-based toys for children's programming such as Thomas & Friends. Some of Fisher-Price's most popular brands include Power Wheels, Laugh & Learn, Little People and Imaginext
Cloudflare	Cloudflare, Inc., with an address of 101 Townsend Street, San Francisco, California 94107, and any and all affiliated companies, which operate a cloud-based web infrastructure platform, available at www.cloudflare.com, that enables capabilities to host static websites on a content delivery network
Dynadot	Dynadot, LLC, with an address of 210 S Ellsworth Ave #345 San Mateo, California 94401, and any and all affiliated companies, which operate an ICANN accredited domain name registrar and web hosting company, available at www.dynadot.com, that allows consumers to register domain names and create websites
Epstein Drangel	Epstein Drangel LLP, counsel for Plaintiff
New York Address	244 Madison Ave, Suite 411, New York, NY 10016
Complaint	Plaintiff's instant Complaint
Application	Plaintiff's <i>ex parte</i> application for: 1) a temporary restraining order; 2) an order restraining Defendant's Website (as defined <i>infra</i>) and Defendant's Assets (as defined <i>infra</i>) with the Financial Institutions (as defined <i>infra</i>); 3) an order to show cause why a preliminary injunction should not issue; 4) an order authorizing bifurcated and alternative service; and 5) an order authorizing expedited discovery
Moore Dec.	Declaration of Michael Moore in Support of Plaintiff's Application
Futterman Dec.	Declaration of Danielle S. Futterman in Support of

Term	Definition
	Plaintiff's Application
Mattel Products	Plaintiff's children's toys, games, playthings, and other products, and/or its iconic sub-brands, including, but not limited to: Barbie, UNO, Thomas & Friends, Hot Wheels, Power Wheels, American Girl and Fisher-Price
Power Wheels Products	Battery-powered ride-on vehicles for toddlers and preschoolers, that come in a variety of models including cars, trucks and ATVs
Power Wheels Marks	U.S. Trademark Registration Nos.: 1,374,017 for "POWER WHEELS" for goods in Class 28; 1,671,657 for "POWER WHEELS" for goods in Class 9; 5,504,969 for  for goods in Classes 9 and 28; and 5,763,877 for  for goods in Class 9
Fisher-Price Marks	U.S. Trademark Registration Nos.: 3,279,454 for "FISHER-PRICE" for goods in Class 28 and 4,115,688 for "FISHER-PRICE" for "computerized online ordering services in the field of toys, games and playthings, electronic commerce services, namely, providing information about products via telecommunication networks for advertising and sales purposes" in Class 35
Mattel Marks	The Power Wheels Marks and Fisher-Price Marks
Plaintiff's Website	Plaintiff's wholly owned subsidiary, Fisher-Price's fully interactive website, located at https://www.fisher-price.com
Counterfeit Products	Defendant's products advertised, offered for sale and/or sold by Defendant via Defendant's Website (as defined <i>infra</i>), which use the Mattel Marks, or at the very least, marks that are confusingly similar thereto
Defendant's Website	Any and all fully interactive websites held by or associated with Defendant, its respective officers, employees, agents, servants and all persons in active concert or participation with any of them, that use the Mattel Marks, that they operate to communicate with consumers regarding their Counterfeit Products and/or through which consumers purchase Counterfeit Products for delivery in the U.S., including, without limitation, Defendant's website located at www.fisher-price.online ; along with any and all of the domain names associated therewith, including the Infringing Domain Name
Infringing Domain Name	www.fisher-price.online
Defendant's Assets	Any and all money, securities or other property or assets of Defendant (whether said assets are located in the U.S.

Term	Definition
	or abroad)
Defendant's Financial Accounts	Any and all financial accounts associated with or utilized by Defendant or any of Defendant's Website (whether said accounts are located in the U.S. or abroad)
Financial Institutions	Any banks, financial institutions, credit card companies and payment processing agencies, such as PayPal Inc. ("PayPal") and other companies or agencies that engage in the processing or transfer of money and/or real or personal property of Defendant
Third Party Service Providers	Any third party providing services in connection with Defendant's Counterfeit Products and/or Defendant's Website, including, without limitation, Shopify, Internet Service Providers ("ISP"), back-end service providers, web designers, merchant account providers, any providing shipping and/or fulfillment services, website hosts (such as Cloudflare), domain name registrars (such as Dynadot) and domain name registries

Plaintiff, a corporation organized and existing under the laws of the State of Delaware, by and through its undersigned counsel, alleges as follows:¹

NATURE OF THE ACTION

1. This action involves claims for counterfeiting of Plaintiff's federally registered trademarks in violation of 15 U.S.C. §§ 1114(1)(a)-(b), 1116(d) and 1117(b)-(c); trademark infringement of Plaintiff's federally registered trademarks in violation of § 32 of the Federal Trademark (Lanham) Act, 15 U.S.C. §§ 1051 *et seq.*; false designation of origin, passing off and unfair competition in violation of Section 43(a) of the Trademark Act of 1946, as amended (15 U.S.C. § 1125(a)); and cybersquatting in violation of the Anticybersquatting Consumer Protection Act (15 U.S.C. §1125(d)) (the "Action"), arising from Defendant's willful infringement of the Mattel Marks, including, without limitation, through Defendant's prominent use of Plaintiff's Mattel Marks on Defendant's Website and/or in connection with its advertisement, marketing, promotion, offering for sale and/or sale of its Counterfeit Products.

JURISDICTION AND VENUE

2. This Court has federal subject matter jurisdiction over the claims asserted in this Action pursuant to 28 U.S.C. §§ 1331 and 1338(a), as well as pursuant to 15 U.S.C. § 1121 as an action arising out of violations of the Lanham Act, 15 U.S.C. §§ 1051 *et seq.*; pursuant to 28 U.S.C. § 1338(b) as an action arising out of claims for false designation of origin and unfair competition; and pursuant to 28 U.S.C. § 1332, as there is diversity between the parties and the matter in controversy exceeds, exclusive of interests and costs, the sum of seventy-five thousand dollars.

¹ Where a defined term is referenced, but not defined herein, it should be understood as it is defined in the Glossary.

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